



(Billing Code 5001-06)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[OMB Control Number 0704-0369; Docket Number DARS-2016-0025]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by *[Insert 30 days after date of publication in the Federal Register]*.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 227.71, Rights in Technical Data, and Subpart 227.72, Rights in Computer Software and Computer Software Documentation, and related provisions and clauses of the Defense Federal Acquisition Regulation Supplement (DFARS); OMB Control Number 0704-0369.

Type of Request: Revision.

Number of Respondents: 75,250.

Responses Per Respondent: Approximately 13.

Annual Responses: 959,602.

Average Burden Per Response: Approximately 1 hour.

Annual Response Burden Hours: 904,574 hours.

Total Annual Burden Hours: 995,174 hours.

Annual Recordkeeping Burden Hours: 90,600 hours.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Needs and Uses: DFARS Subparts 227.71 and 227.72 prescribe the use of solicitation provisions and contract clauses containing information collection requirements that are associated with rights in technical data and computer software. DoD needs this information to implement 10 U.S.C. 2320, Rights in technical data, and 10 U.S.C. 2321, Validation of proprietary data restrictions. DoD uses the information to recognize and protect contractor rights in technical data and computer software that are associated with privately funded developments; and to ensure that technical data delivered under a contract are complete and accurate and satisfy contract requirements.

Respondent's Obligation:

a. Identification and assertion of use, release, or disclosure restrictions prior to delivery. DFARS provision 252.227-7017, Identification and Assertion of Use, Release, or Disclosure Restrictions, is used in all noncommercial solicitations that include either DFARS clauses 252.227-7013,

Rights in Technical Data--Noncommercial Items; 252.227-7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; and 252.227-7018, Rights in Noncommercial Technical Data and Computer Software--Small Business Innovation Research (SBIR) Program, to require offerors to identify and assert, in their offer, technical data or computer software to be delivered with other than unlimited rights in their offer.

b. Post-award notices of use, release, or disclosure restriction and marking. DFARS clauses 252.227-7013, Rights in Technical Data--Noncommercial Items; 252.227-7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation; and 252.227-7018, Rights in Noncommercial Technical Data and Computer Software--Small Business Innovation Research (SBIR) Program, require contractors to both identify and mark technical data or software that must be protected from unauthorized release or disclosure.

c. Justification for any asserted restriction. DFARS 252.227-7019, Validation of Asserted Restrictions--Computer Software, and 252.227-7037, Validation of Restrictive Markings on Technical Data, require contractors and subcontractors to maintain adequate records to justify the validity of any markings that assert restrictions on the Government's rights to

use, modify, reproduce, perform, display, release or disclose delivered or required to be delivered.

d. Use and non-disclosure agreement. DFARS 227.7103-7, Use and non-disclosure agreement, requires intended recipients of technical data or computer software delivered to the Government with restrictions on use, modification, reproduction, release, performance, display, or disclosure, to sign the use and non-disclosure agreement at 227.7103-7(c) prior to release or disclosure of the data, unless the recipient is a Government contractor that requires access to a third parties data or software for the performance of a Government contract that contains the clause at 252.227-7025, Limitations on Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

e. Limitations on use or disclosure. DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, requires contractors and subcontractors at any tier that obtain data from the Government to which the Government has only limited rights, restricted rights, or SBIR rights legends to submit a "Use and Disclosure" agreement.

f. Identification of previously delivered technical data or computer software. DFARS 252.227-7028, Technical Data or Computer Software Previously Delivered to the Government,

requires offerors to identify any technical data or computer software that it intends to deliver that are identical or substantially similar to technical data or computer software that the offeror has produced for, delivered to or is obligated to deliver to the Government.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number, and title for the Federal Register document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting

of comments submitted by mail).

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350-3100.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

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